

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA

v.

**EVIDENTIARY HEARING re: [28] Defendant's
Motion to Suppress Evidence and Statements**

ALEXANDER P. BEBRIS

Case No. 19-CR-2

HONORABLE WILLIAM C. GRIESBACH presiding
Proceeding Held: December 3, 2019
Deputy Clerk: Cheryl
Court Reporter: John Schindhelm

Time Called: 9:00 a.m.
Time Concluded: 11:46 a.m.
Tape: 120319

Appearances:

UNITED STATES OF AMERICA by: Daniel R. Humble and Benjamin W. Proctor

ALEXANDER P. BEBRIS in person and by: Jason Luczak and Brianna J. Meyer

FACEBOOK, INC. by: Ryan Mrazik and Sopen Shah

Mr. Luczak informs the Court that the attorneys representing Facebook are present. Facebook filed a motion to quash the subpoena and declaration. Mr. Luczak states he filed a letter requesting briefing on the matter. Facebook attorneys state their appearance. Mr. Luczak informs the Court that they need to brief the issue as the Facebook declaration is insufficient. Mr. Luczak states that the problem may be that they ran out of time in trying to resolve the issue with Facebook.

9:04 a.m. - Mr. Proctor believes the record and declaration is sufficient and there is no further need to brief the motion to quash. Mr. Mrazik states that Facebook believes the Court already has the information that is being requested, therefore, there is no need for the subpoena.

The Court states that Mr. Luczak will be given the opportunity to make an offer of proof at the end of the hearing. Mr. Luczak states he believes it is necessary to present a written record.

Mr. Luczak explains that the parties have a stipulation as to testimony with Microsoft and requests the Court approve the stipulation, however, some facts may remain in dispute. The Court accepts the stipulation.

Mr. Luczak requests the Court accept documents attached to expert witness report. Mr. Luczak would like them admitted or incorporated into the record so he would not have to lay a foundation for each document. Mr. Proctor states that the Court can accept or reject the documents and states he cannot otherwise answer the question. The Court reviews Rule 104. The Court instructs Mr. Luczak to present the exhibit and make the argument to admit it as part of the record at that time. The Court will address any objections at that time.

9:13 a.m. – The government calls **John Shehan**, NCMEC (National Center for Missing and Exploited Children) the office is based in Alexandria, VA, appearing by video from Washington D.C. Witness sworn and testifies. Direct examination by Mr. Proctor.

9:25 a.m. – Video transmission interrupted.
9:29 a.m. – Video transmission reconnected. Examination continued.
10:03 a.m. – Cross-examination by Mr. Luczak.
10:31 a.m. – Video transmission interrupted.
10:31 a.m. – Court recesses.
10:43 a.m. – Court resumes. Mr. Luczak continues examination.
10:51 a.m. – Video transmission interrupted.
10:56 a.m. – Transmission reconnected.
10:56 a.m. – Examination continued by Mr. Luczak.
11:10 a.m. – Video transmission interrupted.
11:13 a.m. – Transmission reconnected. Mr. Luczak continues examination.
11:16 a.m. – Redirect examination by Mr. Proctor.
11:19 a.m. – Witness excused.

The parties discuss the Microsoft stipulation off the record.

11:27 a.m. – Mr. Luczak states they are still working out a stipulation as to the one witness and asks if it is possible to consider the Facebook issue first because that would dictate whether the hearing would be continued.

The parties explain circumstances. The parties stipulate to the facts.

11:30 a.m. – Mr. Luczak asks the Court to deny the motion to quash the Facebook subpoena. Mr. Luczak presents argument as to what defense needs to make a record regarding Facebook.

11:35 a.m. – Mr. Proctor responds to argument. The Facebook declaration answers these questions.

Mr. Mrazik responds. Mr. Mrazik states they can clarify information in their declaration. He believes they can work out the details with additional time and a supplemental declaration.

11:41 a.m. – Mr. Luczak responds.

The Court questions the materiality of the information. The Court suggests defense submit a post hearing brief and include why Facebook needs to appear live. The Court encourages Mr. Luczak to speak with Facebook representatives.

Defendant's brief shall be submitted by Mr. Luczak by December 23, 2019. The government's response is due by January 10, 2020. Mr. Mrazik may also respond by January 10, 2020. Reply due by January 22, 2020.

11:46 a.m. – Hearing concluded.